

# REMARKS

Applicant has carefully considered the Office Action of December 15, 2004 rejecting claims 1-7, 9-15 and 17-20. The Applicant wishes to express his appreciation to the Examiner for providing an indication of allowable subject matter and for providing a suggested rewritten version of claims 1, 3-5. The Applicant has accepted this rewritten version, and has amended all remaining pending claims (2,7,12,13,18-20) in order to conform to this rewritten version, and to clarify and improve the claim language.

The present response is intended to fully address all points of objection raised by the Examiner, and it is believed to place the application in condition for allowance. Favorable reconsideration and allowance of the application are respectfully requested.

Claims 8 and 16 were previously canceled, and claims 6,9-11,14-15,17 have now been canceled. Therefore, claims 1-5,7,12, 13, 18, 19, 20 remain in the case.

Claims 12 and 18 have been rejected by the Examiner, since the method of production of the product was not considered relevant to the patentability of the product. It is the Applicant's understanding that this rejection is valid only if the final product is identical and indistinguishable from a similar product manufactured using a different method. However, if the final product is easily distinguishable from that produced using a different method, and has structural differences that grant it unique characteristics, the final product can be claimed and protected.

In the instant application, the drinking bag described in claim 12 has a focal weakness point of intersecting laser-scored lines, for ease of puncture with a straw. The weakness point is a structural feature

of the invention, and can be visually identified upon the surface of the final product, as several depressed intersecting lines etched into the web surface. One familiar with the art of packaging materials can easily determine that the intersecting lines were formed by laser, since they appear particularly fine and smooth. The intersecting laser lines grant the pouch considerable structural weakness at the focal point of intersection, and a far superior ease of puncture than that found at the puncture point of prior art drinking bags manufactured with other methods.

Thus in claim 12, the term "laser-scored" is used to describe the intersecting lines etched upon the bag, for in this case the use of a laser beam for their formation is what confers the etched intersecting lines with their specific characteristics (ease of puncture at the focal point). It is Applicant's position that claim 12 should be allowed in the rewritten version attached, which aims to stress the structural aspects of the drinking bag and its laser-scored puncture point.

Similarly, claim 18, relating to the drink bag having an occluded punched hole, has been amended to stress the structural aspects of the novelty of the drink bag of the invention. These structural features are integral to the bag, and grant it ease of puncture.

The features of the present invention, recited in the dependent claims, are deemed to be patentable as being based on independent claims 1 and 5, which are deemed patentable.

Claim 20 relates to the embodiment described in Figure 6 of the specification, where the hole is punched through only two layers of the laminate; one molten adherence layer (preferably polyethylene) occludes the hole, and then a second supplemental layer (preferably of

polyethylene) is added for strength. In contrast, the embodiment described in claim 1 and in Figure 4 describes the hole being punched through three layers, and occluded with one molten layer.

The embodiment of claim 20 results in a pouch that is harder to puncture than that seen in Fig. 4, yet it is more resilient and thus will withstand greater forces during transport and handling.

Claim 20 has now been redrafted to improve the claim language, using the format of the suggested rewritten version of claim 1 supplied by the Examiner.


It is noted that the Examiner has listed previously cited references and has repeated previously stated art rejections based on Secs. 102 and 103. Applicant has previously reviewed and analyzed these same references, and the distinctions were pointed out by the Applicant in the previous response.

In addition to the art rejections, the Examiner has clearly indicated the presence of allowable subject matter based on his suggested amendments to the claims.

Therefore, with these claim amendments, Applicant considers these rejections to have been overcome, as stated above in these Remarks.

In view of the foregoing remarks, all of the claims in the application are deemed to be allowable. Further reconsideration and allowance of the application are respectfully requested at an early date.

Respectfully submitted,

  
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